

**Before the  
Federal Communication Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Review of Regulatory Requirements for</b>	)	<b>CC Docket No. 01-337</b>
<b>Incumbent LEC Broadband</b>	)	
<b>Telecommunications Services</b>	)	

**Reply Comments Of:**  
**Fred Williamson and Associates, Inc. (“FW&A”)**  
**On behalf of:**  
**Chouteau Telephone Company, an Oklahoma ILEC**  
**H&B Telephone Communications, Inc., a Kansas ILEC**  
**Moundridge Telephone Company, Inc., a Kansas ILEC**  
**Pine Telephone Company, Inc., an Oklahoma ILEC**  
**Pioneer Telephone Association, Inc., a Kansas ILEC**  
**Totah Telephone Company, Inc., a Kansas and Oklahoma ILEC**  
**Twin Valley Telephone, Inc., a Kansas ILEC**  
**(Collectively, “ILECs”)**

### **Background**

The ILECs are small rural LECs who have an interest in the outcome of this proceeding because they provide broadband facilities and services to customers in their service areas. Deployment of broadband services in small rural areas is much more costly per subscriber than deployment in non-rural areas. This is primarily due to the low population densities that exist in rural areas. The broadband services the ILECs (and other small rural rate of return LECs) provide are primarily interstate services whose rates are governed by the National Exchange Carrier Association (NECA). Revenues for small rural LECs' interstate broadband services are remitted to the NECA pool and costs for the broadband services are assigned to and recovered from the NECA pool. Deployment of broadband services in many small rural areas at reasonable rates would not be possible without those LECs having the ability to recover the associated costs from the NECA Pool.

### **Rural LEC Broadband Services Should Not Be Deregulated At This Time.**

If the FCC decides to deregulate or detariff broadband services for large price cap or other large LECs, FW&A and the ILECs it represents recommend that the FCC should not, at the same time, deregulate the broadband services of small rate of return LECs that serve the rural broadband service market. Rate of return LECs serve significantly different markets than do price-cap LECs and require the continued support of the NECA pool to achieve the goal of section 706 of the Act in the rural areas they serve. To promote more aggressive deployment of broadband facilities and services in rural areas and to incent small rural rate of return LECs to continue making the substantial

investments necessary to provide broadband services in the rural areas they serve, the Commission should consider different treatment for non-rural and rural LECs.

**Deregulation will impede the deployment of Rural LEC broadband services**

The majority of commenters in this proceeding focus solely on the issue of broadband deregulation in areas served by the large price cap LECs, such as SBC. The large LECs and their supporters argue that there is sufficient intermodal competition and thus, they should be given non-dominant status in the broadband market and their broadband services should be deregulated.<sup>1</sup> Competitors to the large price cap LECs muster a variety of arguments to support their case that price cap LEC broadband services should not be deregulated and that these LECs should not be declared non-dominant.<sup>2</sup> Both sides argue that only by deregulating large LEC broadband services (price cap LECs), or by continuing to regulate large LEC broadband services (competitors to the price cap LECs), will the goals of competition be served. Both sides also argue that the Congressional goal espoused in section 706 of the Act mandating the deployment of broadband services to Americans on a reasonable and timely basis will only be advanced by adopting their position.

Whatever the merits of these arguments and whatever the Commission may decide about deregulating large LEC broadband services, it is clear that lost in the smoke and din of all this rhetoric by both sides is any consideration of the effect of deregulation of broadband

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<sup>1</sup> ALCATEL, Alaska Communications Systems, Bell South, DSL Forum, Citizens For A Sound Economy Foundation, SBC, Quest, Sure West and Verizon.

<sup>2</sup> AD HOC, ALTS, Association of Communications Enterprises, David Sharnoff, COVAD, Competitive Telecommunications Assn., CBEYOND and NUVOX, DIRECTV Broadband, AT&T, DSL Net Communications, Focal Communications and PAC-West, Information Technology Association of America, IP Communications, Mpower Communications, New Edge Networks, Sprint, Texas Coalition of Cities, Time Warner, USLEC and WorldCom.

services on broadband deployment for customers in the areas served by small rural rate of return LECs. FW&A and the ILECs it represents support the comments of the National Telecommunications Cooperative Association (NTCA) that: “the Commission be very flexible as it considers regulatory changes. A new regulation (or the removal of an existing one) that is anticipated to spur broadband competition in urban areas may actually impede deployment in some rural areas. Because of the inherent differences among small carriers, as the Commission recognizes, it is often appropriate to regulate large incumbent LECs and rural incumbent LECs differently. Any regulatory changes should be made with a clear understanding of how they will affect rural companies and the subscribers they serve.”<sup>3</sup>

The ILECs submit that the Commission should limit its analysis of broadband deregulation to areas served by large, predominately price-cap LECs at this time. Sweeping deregulation of broadband markets, which would include those served by small rural rate of return LECs, would impede, not advance deployment of broadband services in these rural areas. The rural market served by small rate of return LECs is significantly different from the urban broadband market served by large price-cap LECs and their competitors. These rural markets are generally characterized by:

- Low residential and business customer densities.
- High costs per line.
- Absence of significant intermodal and intramodal competition.

As the NTCA observes, “Rural incumbent LECs are rolling out broadband services at an impressive rate. However, rural deployment is difficult and expensive, and the returns on

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<sup>3</sup> Comments of the National Telecommunications Cooperative Association, filed March 1, 2002 in CC Docket No. 01-337, page 6.

investment comparatively low.”<sup>4</sup> The Commission should take these differences into account in this proceeding and insure that rural LEC have a stable and predictable environment in which to deploy broadband services to customers in their service area by continuing to regulate small rural LEC broadband services at this time. Continuing to regulate rural LEC broadband will allow the ongoing ability by rural LECs to assign broadband costs to the NECA pool and thus insure that pool cost averaging will continue to allow these small rate of return LECs to economically provision broadband service. Without the pool, providing reasonably priced broadband service in rural rate of return LEC service areas would not be financially feasible. In the absence of significant intramodal or intermodal broadband competition in small rural rate of return LEC areas, the FCC can continue to insure that NECA broadband rates remain affordable for rural consumers and remain reasonably comparable to those in urban areas as required by the Act.

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<sup>4</sup> Id.